

Office of Real Estate Services - Project Development Guide

Chapter 7

Property Valuation

Uniform Act Sections 101 and 301

49 CFR 24.102

49 CFR 24.103

23 CFR 710.309

REFERENCES

The U. S. Constitution and most state constitutions require that just compensation be paid to the owner of private property taken for public use. The Federal requirement is reflected in the **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, (Uniform Act)** and its implementing regulation, 49 CFR Part 24.

7.1. THE APPRAISAL REQUIREMENT

The measure of just compensation to be offered the owner is cited in 49 CFR 24.102(d):

"Before the initiation of negotiations, the agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value (FMV) of the property..."

The approved appraised FMV is the basis for the just compensation offer to the owner for the property to be acquired. In most instances, FMV will be the measure of just compensation. State statute and case law must also be considered in determining just compensation for property acquired by a state or local agency.

An appraisal is defined in the Section 101 of the Uniform Act as:

"... a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information."

The format and amount of documentation in the appraisal report depend on the complexity of the appraisal problem. Federal regulations allow for waiver of appraisal, called a waiver valuation.

The estimation of value of real property is the basis for the just compensation that is required by the U. S. Constitution to be paid to property owners. This chapter discusses the valuation process.

SUMMARY

The agency can use the waiver valuation provision, if the agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and FMV of the acquisition is estimated at \$10,000 or less. This is described in 49 CFR 24.102(c). The Federal agency funding the project may approve exceeding the \$10,000 threshold, up to a maximum of \$25,000, if the agency acquiring the real property offers the property owner the option of having the agency appraise the property.

7.2. APPRAISAL REPORT FORMATS AND SCOPE OF WORK

Per 24.103(a), acquiring agencies are encouraged to develop and use, as appropriate, appraisal formats that meet the needs of the appraisal problem. Detailed appraisals, often called standard appraisals, are needed for acquisitions which require in-depth analysis and presentation of relevant market information. This is especially true when there are questions regarding the highest and best use and/or damages to the remainder property that is not being acquired. Appraisals with less detail can be prepared for acquisitions which by virtue of their low value, or simplicity, do not require in-depth analysis and presentation of relevant market information. The level of detail and format should be addressed in the appraisal scope of work.

7.2.1. DETAILED APPRAISAL

The detailed appraisal report format is used for valuations that are not low value, or are complex, whether they are whole or partial acquisitions. A detailed report must reflect nationally recognized professional appraisal standards. See 49 CFR 24.103(a).

A detailed appraisal addresses all relevant appraisal problem issues to the depth necessary to resolve each issue to the user of the appraisal. It considers and addresses issues such as highest and best use (especially when highest and best use is in transition or there will be a change in the highest and best use following the acquisition), severance damages, special benefits, and special purpose properties.

An appraiser need not apply each of the three traditional approaches to value. If one or two of the three approaches is not needed to address the appraisal problem, either the appraiser or the acquisition agency may determine it is not required. The appraiser should state in the appraisal report the reason(s) for not using one or more approaches. As with all appraisals, the goal is to properly address and communicate the crucial appraisal problem valuation issues and reduce unnecessary analysis.

A detailed appraisal may include the findings of a *specialty report*. A specialty report is a valuation of some aspect of the property which is unique, such as machinery or equipment, mineral rights, or forestation. It contains items which may not fall within the expertise of the real property appraiser assigned.

The detailed appraisal report contains the complete documentation of the data within the report, or

referenced data book, and the value conclusion must be adequately supported. Minimum detailed report requirements are found in 49 CFR 24.103(a). As with all appraisals, the specific, individual report requirements are dictated by the appraisal problem.

7.2.2. CRITERIA FOR APPRAISALS AND SCOPE OF WORK

The acquiring agency has a role in contributing to the appraisal process, especially in defining the appraisal problem and developing the scope of work. The agency must assure that appraisals are relevant to its needs, reflect commonly accepted appraisal practice, and comply with the definition of appraisal found in 49 CFR 24.2(a)(3). The scope of work requirement applies to all appraisal formats. The extent of the work statement depends on the circumstances of each acquisition. A scope of work is not required for a waiver valuation as a waiver valuation is not an appraisal.

1. A written statement.
2. Independently and impartially prepared.
3. Prepared by a qualified appraiser.
4. State the appraiser's opinion of value.
5. Appraised value defined, e.g. FMV.
6. Adequately describe the appraised property, including items identified as personal property. "Adequately" means to illustrate and fully define the appraisal problem to the reader or user.
7. Specifically stated date of value.
8. Opinion of value supported by presentation of sufficient, relevant market information, including valuation data, and the appraiser's analysis of that information.

APPRAISAL PARAMETERS

By definition, a minimum appraisal must "be" an appraisal. According to 49 CFR 24.103(a), the parameters for minimum appraisals are summarized in the accompanying sidebar.

Most acquiring agencies use more than one appraisal format. Minimum appraisal formats are typically based on one of several needs. One need may be to appraise a certain type of property, such as single family residences. Another need may be to appraise lower value properties. Adequate market data may preclude the need for using the cost and income data.

An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support his or her opinion of value.

This statement and the definition of an appraisal found in 49 CFR 24.2(a)(3) set the parameters for minimum appraisals.

Appraisals may be prepared either by staff or fee (contract) appraisers. Chapter 7.8. describes appraiser qualifications. Paralleling appraisal standards, a properly qualified appraiser must be

is no need to engage an over-qualified appraiser or valuer, in the case of waiver valuation.

All appraisal reports must be in written form and retained in official agency files.

7.3. APPRAISER'S CERTIFICATE

Each appraisal, whether performed by a fee or staff appraiser, must contain a Certificate of Appraiser. The suggested form for the certificate is shown as Figure 7-1. Other statements, required by the appraiser's professional organization or state appraisal board, or by circumstances connected with the appraisal assignment or the preparation of the report, may be inserted as appropriate. The suggested appraiser's certificate as shown in Figure 7-1 includes statements covering the provisions of Title III of the Uniform Act cited below.

SEC. 301(1):

"...the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property..."

SEC. 301(2):

"Any decrease or increase in the FMV of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property."

Federal Project _____
Parcel No. _____

CERTIFICATE OF APPRAISER

I hereby certify:

That I have personally inspected the property herein appraised and that I have also made a personal field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented in said appraisal or in the data book or report which supplements said appraisal.

That to the best of my knowledge and belief the statements contained in the appraisal herein set forth are true, and the information upon which the opinions expressed therein are based is correct; subject to the limiting conditions therein set forth.

That I understand that such appraisal may be used in connection with the acquisition of

right-of-way for a project to be constructed by _____ with the assistance of Federal-aid highway funds, or other Federal funds.

That such appraisal has been made in conformity with the appropriate state laws, regulations, and policies and procedures applicable to appraisal of right-of-way for such purposes: and that to the best of my knowledge no portion of the value assigned to such property consists of items which are noncompensable under the established state law.

That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the values reported herein.

That any increase or decrease in the fair market value of the real property appraised caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than physical deterioration within the reasonable control of the owner, was disregarded in this appraisal.

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the acquiring agency of said state or officials of the Federal Highway Administration and that my opinion of just compensation for the acquisition as of the ____ day of 20__, is \$_____ based upon my independent appraisal and the exercise of my professional judgment.

The owner(s) were offered the opportunity to accompany the appraiser on the property inspection, which was held on _____.

DATE: _____ APPRAISER: _____

Figure 7-1

7.4. OWNER ACCOMPANIMENT

The Uniform Act requires that the property owner, or the owner's designated representative, be given an opportunity to accompany the appraiser during the appraiser's inspection of the property. The purpose of this requirement is to ensure that the owner has the opportunity to advise the appraiser of any features of the property which might affect the valuation of the property as well as indicate any elements of the property which might not be obvious to the appraiser, such as the location of a septic system.

The invitation to the property owner may be given either by the acquiring agency or by the appraiser. Although not required, it is preferable that the invitation be made in writing, with

sufficient lead time for the owner to arrange to be present or to request an alternative time. If the owner declines the invitation to accompany the appraiser, the declination should also be in writing and, together with the invitation, be retained in the agency's parcel file. A form letter may be used for this purpose.

The appraiser should include in the appraisal report the date of the inspection and the name(s) of the person(s) who participated in the inspection of the property. The Certificate of the Appraiser may include a statement that the owner was offered the opportunity to participate in the inspection. If a reasonable effort is made by the acquiring agency to meet this requirement and the owner declines or fails to respond and the file is so documented, the appraiser may inspect the property without owner accompaniment.

7.5. WAIVER VALUATION

Section 24.102(c) of 49 CFR allows the agency to waive an appraisal under certain circumstances:

The owner is donating the property and releases the agency from its obligation to appraise the property; or

The agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated FMV is estimated at \$10,000 or less based on a review of available data.

The waiver valuation is typically decided by appraisal management in the appraisal assignment process. As part of determining the extent of the appraisal problem(s), the individual charged with that responsibility determines if the appraisal problem is uncomplicated and the FMV of the acquisition is estimated to be \$10,000 or less. At that point, waiver valuation procedure may be either recommended to the determining official or directly implemented.

Even though the appraisal is not required, the agency must establish and offer an amount it believes represents just compensation for the property to be acquired. The criteria for appraisals do not apply and an appraisal review is not required. However, agencies should provide support for the amount to be offered, which may include sales and/or other market information in the project area. We suggest that a written report be included in the parcel file.

Agencies have broad latitude in developing waiver valuation procedures. While the regulation does not require the agency to offer the owner an opportunity to accompany the valuer, this is considered to be a good practice and the property owners may appreciate the offer.

7.5.1. MINIMUM PAYMENT

Some jurisdictions have adopted a "minimum payment" policy, which simply means all nominal acquisitions are offered at least a minimum acquisition amount. Agencies using this procedure

typically offer a fixed minimum amount between \$100 and \$500. This policy may be administered in conjunction with the waiver valuation process.

7.6. FAIR MARKET VALUE AND JUST COMPENSATION

The acquiring agency must offer the property owner an amount which it believes to be just compensation, and that amount is to be based on, and no less than, the FMV of the property as determined by a professionally prepared, reviewed and approved appraisal; or the waiver valuation process.

There are times when the FMV of the property is not necessarily the just compensation. These situations may occur when the property is unique in nature, when the appraisal, although properly prepared, does not estimate just compensation with certainty, or when the appraised FMV does not adequately measure just compensation.

If the approved appraisal does not adequately reflect just compensation for the property to be acquired, then the acquiring agency, using the approved FMV as a basis, may establish an amount which it believes does represent just compensation. Agency files must contain documentation and justification for the amount of just compensation so established.

7.7. ACQUIRING AGENCY VALUATION APPROVAL

The Uniform Act requires that before negotiations with the property owner are initiated, the acquiring agency shall establish an amount which it believes to be just compensation for the real property to be acquired. Most highway agencies do this as part of the appraisal review process. However, the just compensation offer may also be developed outside the appraisal review process.

Per 24.102(d), an agency official must establish the amount which it believes to be just compensation for the real property to be acquired. This means that an agency employee, as opposed to a contractor (such as a fee review appraiser), must determine the just compensation offer.

7.8. APPRAISER QUALIFICATIONS

It is the responsibility of the agency to establish criteria for determining minimum qualifications of appraisers. Qualifications must be consistent with the level of difficulty of the appraisal assignment(s). Although qualifications are not prescribed, the appraisal standards indicate the level of competence needed.

Contract (fee) appraisers must be state licensed or certified in accordance with Uniform Standards of Professional Appraisal Practice (USPAP), per 49 CFR 24.103(d) (2). It is the agency's responsibility to evaluate the qualifications and performance of both fee and staff appraisers. This information is useful in appraiser assignment/contracting and to determine training needs.

7.9. APPRAISAL TECHNIQUES

Uncomplicated, low-value (under \$10,000) acquisitions

A high percentage of acquisitions are uncomplicated and low value. The waiver valuation provision was developed to meet this need. In practice, this option can be very successful. For instance, an acquiring agency may have a knowledgeable staff person in a remote district perform a waiver valuation under \$10,000, then make the offer to the property owner. Or, a central office employee who is familiar with a project area and land values may complete a waiver valuation without visiting the remote location and send it to the local district office for acquisition. This procedure may allow an agency to use knowledgeable staff and avoid the expense of hiring contract appraisers for minor acquisitions. The waiver valuation can save an acquiring agency considerable time and operating costs.

Number of appraisals

In the past, many agencies used dollar thresholds to determine if two appraisals are needed on an acquisition. We encourage a more realistic approach. The number of appraisals should be dictated by the appraisal problem. Generally, the more complex and sophisticated the appraisal problem, the greater the need for two appraisals. This operating procedure can save time and money by eliminating unnecessary appraisals.

Minimum appraisals

The recent direction of Federal laws and regulations is to simplify low value acquisition valuations. This is sometimes called "resource or risk management." Agencies are encouraged to adopt this perspective and maximize their resources.

If an appraisal problem is such that it can be adequately and reliably addressed without resorting to a traditional three approach appraisal, then, in the interest of economy, the reliable and relevant valuation technique(s) should be used. Often the appraisal problem can be fully addressed with the sales comparison approach, and the agency should instruct the appraiser to use only that approach and not unnecessarily pay for cost and/or income approaches. Agencies should also consider developing project (sales) data (but not analysis) books for larger projects and furnishing them to the appraisers, saving the time and expense of duplicate individual data searches. Individuals concerned about potential appraiser ethics conflicts between the USPAP and the minimum standards appraisal policy should note that the Appraisal Standards Board has determined the provisions of 49 CFR 24.103 are consistent with the USPAP. In any situation where an appraiser believes agency requirements are in conflict with USPAP, the appraiser should consider invoking the USPAP Jurisdictional Exception Provision.